

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DORIS HORN AND J. W. HENDERSON, ET AL.	)	
	)	
COMPLAINANTS	)	
	)	
VS.	)	CASE NO. 91-032
	)	
ESTILL COUNTY WATER DISTRICT NO. 1	)	
ARCHIE MCINTOSH, DAN ROSE, JAMES SONS	)	
	)	
DEFENDANTS	)	

O R D E R

This matter arises upon the filing of a Joint Stipulation executed by the parties to the above-referenced case which specifies time limitations for completion of discovery. The agreement also provides that all exhibits shall be prefiled and a hearing shall be set on dates to be determined by the Commission.

Prior to the filing of the Joint Stipulation, the Commission received a letter dated July 16, 1991 from Mr. J. W. Henderson and Ms. Doris Horn, spokespersons for the group of Complainants in this proceeding. The Complainants allege that on July 15, 1991 they appeared at the Estill County Water District office in West Irvine, Kentucky, to examine the books and records of the water commission. The Complainants allege that they were instructed by the office manager that no books would be opened to them and no information would be released to them by the authority of Chairman McIntosh and attorneys for the Defendants in this action, Messrs.

Mainous and Owens. In their letter, which the Commission will treat as a motion, the Complainants request an extension of time due to the fact that they were unable to examine the records and books of the water district. The Complainants ask that they be granted an additional 30 days extension within which to file their exhibits and witness lists.

After consideration of the record in this proceeding, the Joint Stipulation, the motion of the Complainants and being otherwise sufficiently advised, the Commission finds:

1. The Joint Stipulation filed into the record on July 19, 1991 appears to be a reasonable discovery agreement. However, given the fact that the Joint Stipulation was not filed into the record until the same date the information was due to be filed by the complaining parties, the Commission finds it appropriate to grant an extension of time to both parties and reject the agreement.

2. Estill County Water District No. 1 is a public utility organized under KRS Chapter 74 and pursuant to KRS 278.015 and KRS 278.040 is subject to the jurisdiction of this Commission. Complainants have subjected themselves to the jurisdiction of this Commission by the filing of this action under KRS 278.260 and KRS 74.455. The denial of the right to inspect the books and records of the defendant water district unreasonably prejudices the Complainants in the prosecution of this action. KRS 74.240 provides that the books and records of any district are in the public domain and Complainants have a legal right to inspection of

those records. Thus, the district should provide access to its books and records to the Complainants.

IT IS THEREFORE ORDERED that:

1. The Joint Stipulation is hereby rejected by the Commission.

2. The books and records of the Estill County Water District No. 1 shall remain open for public inspection at the District's offices during normal business hours.

3. The following procedural schedule shall be adhered to by all parties.

a. Complainants shall have up to and including August 29, 1991 within which to conduct further discovery on the complaint.

b. Complainants shall file a proposed witness list and proposed exhibit list no later than September 5, 1991.

c. Defendants shall have up to and including September 19, 1991 within which to conduct further discovery on the complaint.

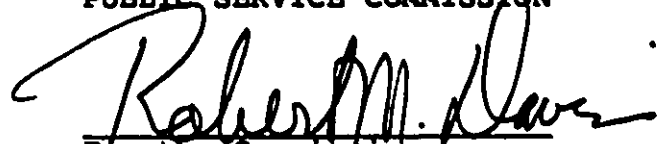
d. Defendants shall file a proposed witness list and proposed exhibit list no later than September 26, 1991.

e. Complainants and Defendants shall prefile all exhibits and a narrative summary of each witness' testimony on or before October 1, 1991.

f. Complainants and Defendants shall appear at a public hearing scheduled for October 7, 1991 at 10:00 a.m., Eastern Daylight Time, in Hearing Room No. 1 at the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.

Done at Frankfort, Kentucky, this 9th day of August, 1991.

PUBLIC SERVICE COMMISSION

  
For the Commission

ATTEST:

  
Executive Director